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FILED
DISTRICT COURT OF GUAM

MAR 04 2008 *db*

JEANNE G. QUINATA
Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JUNG SOO YANG,

Defendant.

CRIMINAL CASE NO. 07-00054

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, JUNG SOO YANG, enter into the following plea agreement:

1. The defendant agrees to enter a guilty plea to Count II of a Superseding Indictment charging him with Fraud in Connection with Identification Documents in violation of Title 18, United States Code, Section 1028(a)(1). The government will move to dismiss Count I at sentencing.

2(a) The defendant, JUNG SOO YANG, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of fraudulently issued Guam drivers licenses, illegal employment of aliens, and related unlawful activities. Cooperation shall

1 include providing all information known to defendant regarding any criminal activity, including
2 but not limited to the offense to which he is pleading guilty. Cooperation will also include
3 complying with all reasonable instructions from the United States; submitting to interviews by
4 investigators and attorneys at such reasonable times and places to be determined by counsel for
5 the United States; producing to the United States all non-privileged documents (including
6 claimed personal documents) and other materials in the possession, custody or control of
7 defendant requested by attorneys and agents of the United States; and testifying fully and
8 truthfully before any grand juries, hearings, trials or any other proceedings where defendant's
9 testimony is deemed by the United States to be relevant. Defendant understands that such
10 cooperation shall be provided to any state, territorial, local or federal law enforcement agencies
11 designated by counsel for the United States. Further, it is understood and agreed that defendant
12 shall not directly, indirectly, or intentionally disclose anything defendant knows or had done
13 concerning the United States' investigation to anyone other than defendant's attorney. Defendant
14 agrees to take no steps directly or indirectly to warn any subject of this investigation that
15 defendant, a subject or anyone else is being investigated.
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17 2(b) The United States will make this cooperation known to the Court prior to the
18 defendant's sentencing. The defendant further understands that he remains liable and subject to
19 prosecution for any criminal schemes of which he does not fully advise the United States, or for
20 any material omissions in this regard.

21 2(c) This agreement is not contingent in any way upon the outcome of any investigation,
22 proceeding or subsequent trial. Thus, none of the rights and obligations described above are in
23 any way dependent upon a grand jury returning an indictment, a jury's verdict at any trial, or the
24 success of any prosecution.

25 2(d) Except as otherwise herein provided, and in particular in Paragraph 8 of this plea
26 agreement, the United States agrees not to prosecute defendant for any other non-violent
27 offenses which were committed in the District of Guam or the Northern Mariana Islands (CNMI)
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1 which defendant reveals to Federal authorities during his cooperation with the United States.
2 This agreement is limited to crimes committed by defendant in the districts of Guam or the
3 CNMI.
4

5 3. The defendant, JUNG SOO YANG, understands that the maximum sentence for fraud
6 in connection with an identification document which is a driver's license in violation of Title 18,
7 United States Code, Sections 1028(a)(1) and 1028(b)(1)(A)(ii), is a term of fifteen (15) years
8 imprisonment, a \$250,000 fine, and a \$100 special assessment fee per count, which must be paid
9 at the time of sentencing. Any sentence imposed may include a term of supervised release of not
10 more than three (3) years in addition to such terms of imprisonment. Defendant understands that
11 if he violates a condition of supervised release at any time prior to the expiration of such term,
12 the court may revoke the term of supervised release and sentence him up to an additional two (2)
13 years of incarceration pursuant to 18 U.S.C. § 3583(e)(3).

14 3(b) If defendant cooperates as set forth in Paragraph 2, the government will recommend
15 that defendant receive the minimum term of incarceration recommended by the Sentencing
16 Guidelines.

17 3(c) The government will recommend a fine within the Sentencing Guidelines range. If
18 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a
19 full disclosure of his financial status to the United States Attorney's Office by completing a
20 Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule.
21 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

22 4. The defendant understands that to establish a violation of Fraud in Connection with
23 Identification Documents in violation of Title 18, United States Code, Sections 1028(a)(1) and
24 1028(b)(1)(A)(ii), the government must prove beyond a reasonable doubt:

25 First: that the defendant knowingly and without lawful authority
26 produced an identification document, authentication feature or a
false identification document, to-wit: a driver's license;

27 Second: the production of this document was in or affected interstate
28 or foreign commerce.

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2 5. The defendant agrees that the Sentencing Guidelines apply to this offense. The
3 defendant also understands that the facts he stipulates to herein will be used, pursuant to 1B1.2,
4 in calculating the applicable guidelines level. The Government and the defendant stipulate to the
5 following facts for purposes of the Sentencing Guidelines:

6 (a) The defendant was born in 1967, and is a citizen of Korea.

7 (b) If the defendant cooperates with the United States by providing information
8 concerning the unlawful activities of others, the government agrees that any self-incriminating
9 information so provided will not be used against defendant in assessing his punishment, and
10 therefore, pursuant to § 1B1.3 of the Sentencing Guidelines, this information should not be used
11 in determining the applicable guidelines range.

12 (c) The defendant entered Guam November 28, 2003, on a Guam Tourist Visa Waiver,
13 and failed to return to Korea within 15 days. Instead, he remained on Guam illegally. Because
14 he was in the United States illegally, he was not eligible to secure a U.S. social security number
15 or a U.S. taxpayer identification number (TIN) or any other document issued by the United States
16 which would evidence his right to remain in the United States.

17 The Guam Motor Vehicle Division (MVD) regulations prohibit an alien from receiving a
18 Guam drivers license unless he has proof that he is entitled to be in the United States, as
19 evidenced either by an original social security card, an original, notarized letter from the Social
20 Security Administration authenticating his social security number, or an original letter from the
21 Internal Revenue Service authenticating his TIN.

22 Defendant knew that regular drivers licenses could be illegally procured from the MVD.
23 He knew that he had no social security number or other form of authentic United States
24 identification, so that he would have to obtain the license using fraudulent documents.
25 Defendant paid Eun Young Lee \$200 to help him secure a Guam driver's license. On February
26 23, 2004, Eun Young Lee and the defendant submitted an application for a driver's license to the
27 MVD, falsely certifying that defendant's TIN was 943-79-5679, which TIN in fact belongs to
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1 another individual. At a later date, Lee directed him to go to the MVD and pick up his license.
2 Defendant went to the MVD on March 10, 2004, and was issued license number 122 809 6851.
3 He was given a printout of the information on his license, which reflected that the 943-79-5679
4 was his "Social Security/ID No." The production, issuance, transfer and use of this driver's
5 license affected interstate and foreign commerce.
6

7 (d) The defendant understands that notwithstanding any agreement of the parties, the
8 United States Probation Office will make an independent application of the Sentencing
9 Guidelines. The defendant acknowledges that should there be discrepancies in the final
10 sentencing guidelines range projected by his counsel or any other person, such discrepancies are
11 not a basis to withdraw his guilty plea.

12 6. The defendant understands that this plea agreement depends on the fullness and
13 truthfulness of his cooperation. Therefore, defendant understands and agrees that if he should
14 fail to fulfill completely each and every one of his obligations under this plea agreement, or make
15 material omissions or intentional misstatements or engage in criminal conduct after the entry of
16 his plea agreement and before sentencing, the government will be free from its obligations under
17 the plea agreement. Thus defendant, in addition to standing guilty of the matters to which he has
18 pled pursuant to this agreement, shall also be fully subject to criminal prosecution for other
19 crimes, and for the counts which were to be dismissed. In any such prosecution, the prosecuting
20 authorities, whether Federal, State, or Local, shall be free to use against him, without limitation,
21 any and all information, in whatever form, that he has provided pursuant to this plea agreement
22 or otherwise; defendant shall not assert any claim under the United States Constitution, any
23 statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of
24 Evidence, or any other provision of law, to attempt to bar such use of the information.

25 7. Defendant understands that whether he has completely fulfilled all of the obligations
26 under this agreement shall be determined by the court in an appropriate proceeding at which any
27 disclosures and documents provided by defendant shall be admissible and at which the United
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2 States shall be required to establish any breach by a preponderance of the evidence. In
3 determining whether there has been a breach, the parties agree that any polygraph results and the
4 polygrapher's conclusions and opinions shall be admissible.

5 8. In exchange for the Government's concessions in this plea agreement, the defendant
6 waives any right to appeal or to collaterally attack this conviction but reserves the right to appeal
7 the sentence imposed in this case. He agrees to waive all constitutional challenges to the validity
8 of the Sentencing Guidelines. The defendant agrees that the government has bargained for a
9 criminal conviction arising from his conduct. If at any time defendant's guilty plea or conviction
10 is rejected, withdrawn, vacated or reversed, for whatever reason, or if any change of law renders
11 the conduct for which he was convicted to be non-criminal, defendant agrees that he will enter a
12 guilty plea to another charge encompassing the same or similar conduct. In such event,
13 defendant waives any objections, motions or defenses based upon the Statute of Limitations,
14 Speedy Trial Act, or constitutional restrictions as to the time of bringing such charges.

15 9. The defendant acknowledges that he has been advised of his rights as set forth below
16 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has
17 had sufficient opportunity to reflect upon, and understands the following:

18 (a) The nature and elements of the charge and the mandatory minimum penalty provided
19 by law, if any, and the maximum possible penalty provided by law;

20 (b) His right to be represented by an attorney;

21 (c) His right to plead not guilty and the right to be tried by a jury and at that trial, the
22 right to be represented by counsel, the right to confront and cross-examine witnesses against him,
23 and the right not to be compelled to incriminate himself, that is, the right not to testify;

24 (d) That if he pleads guilty, there will not be a further trial of any kind on the charges to
25 which such plea is entered so that by entering into this plea agreement, he waives, that is, gives
26 up, the right to a trial;

27 (e) Because this plea is entered pursuant to Federal Rule of Criminal Procedure
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1 11(c)(1)(B), the defendant understands that he may not withdraw his guilty plea even if the court
2 does not accept the sentencing recommendations of the government or his counsel;

3
4 (f) That, upon entry of a plea of guilty, or thereafter, the Court may ask him questions
5 about the offenses to which he has pled, under oath, and that if he answers these questions under
6 oath, on the record, his answers may later be used against him in prosecution for perjury or false
7 statement if an answer is untrue;

8 (g) That he agrees that the plea agreement is voluntary and not a result of any force,
9 threats or promises apart from this plea agreement;

10 (h) The defendant is satisfied with the representation of his lawyer and feels that his
11 lawyer has done everything possible for his defense;

12 (i) That this plea agreement has been translated into his native language and he fully
13 understands it.

14 DATED: 3/3/08

15 YANG
16 JUNG SOO YANG
17 Defendant

18 DATED: 3/3/08

19 JOAQUIN C. ARRIOLA, JR.
20 Attorney for Defendant

21 LEONARDO M. RAPADAS
22 United States Attorney
23 Districts of Guam and NMI

24 DATED: 3/4/08

25 By:

26 KARON V. JOHNSON
27 Assistant U.S. Attorney

28 DATED: 3/4/08

JEFFREY J. STRAND
First Assistant U.S. Attorney